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THINGS WE DON'T KNOW ABOUT CRIME¹

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There is perhaps no social phenomenon that excites more attention, discussion and costs us more dearly, both in terms of money and of human troubles, than that of crime. The stories of crime are a staple mental pabulum to millions; and probably most persons have a ready-made notion how crime should be dealt with. At least they freely heap blame on the police, prosecuting officials, courts, prison authorities and others for not promptly and effectively clearing the world of rascality. If most of the irresponsible talk and the outpourings of sensational publicists proceed from ignorance, how about ourselves? What do we really know about the origin of crime, its incidence, its prevention, and the actual operation of the means employed to combat it?

Just why crime is has perplexed mankind since the beginning of things; everywhere men have speculated and theorized about the subject and groaned when satisfying answers refused to emerge. Perhaps the fundamental mistake has been that we have tried to isolate the factors in the causation of crime, ignoring that its roots must be sought in the criminal complex of society itself. After all, more people become the victims of the predatory instincts of men armed with a show or right and justice than become the victims of the recognized burglar. The difference between conquering a whole people with the torch and sword and killing an individual is not one in principle. Yet society may applaud the one act and condemn the other. Are there not fresh examples of this in our minds?

Without delving too deeply into this most intricate subject we can at least bear in mind that potential criminality is not the dire possession of special classes in the community who in greater or smaller number fall into the clutches of the law. But the larger aspects of the situation do not absolve us from giving scant attention to the causation of crime, for there is much we can learn of the utmost practical utility. The great desideratum is to retain a clear perspective of the phenomenon of crime as a whole while we seek to isolate this or that factor in the well-nigh endless chain of causation.

¹Read before the American Prison Congress, Detroit, October 16, 1922.

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There is not much left of the older theories about criminals as a species of humanity quite apart from the rest. Progress has been sought in other directions. We of the present day enthused more or less when scientific measurements were applied with a degree of success to the individual offender; to his mental and physical capacities or incapacities; we learned much. Many believed that at least one-half of our perplexities had vanished by the discovery of the defective among the delinquents, and that we could largely account in percentages for the causation of crime. But, after all, we had only taken a step forward; most of the early estimates about the "abnormal" individuals in the institutional population had to be severely pruned, although, even now, there are not wanting men who seem to believe that there is a specific for the diagnosis of crime and therefore, presumably, for its cure.

Our scientific vanguard, I believe, realizes too well how fragmentary our knowledge is, and that behind all dissection of mental and physical characteristics and other phenomena within the reach of their laboratory instruments lies a vast unexplored region which must be surveyed as a necessary background to their findings. I have already referred to the criminal complex which is manifest throughout society. Perhaps we may more easily arrive at an understanding by asking questions like these: Where must one look for the origin of the characteristics which seem so unfailingly to mark criminal careers? How far are they rooted in known conditions, and how far are such conditions preventable? Recent investigations have not so much been centered on the adult offender or on conduct already demanding the intervention of the law, but upon the child and presumably, therefore, on the beginnings of delinquency. By intensive study of the child, his heredity, environment, etc., it is hoped to pry a little wider the door to the mystery why crime is.

These latest endeavors should be hailed joyfully and aided on every side. They will teach much and enable us to employ preventives in a surer measure. But will such scientific "surveys" lay bare the criminal complex of society at large? Or, to be more concrete, will they disclose how far certain of the fundamentals in the causation of crime are embedded in a warped, misguided, cruelly-grinding and, therefore, crime-productive social and industrial order? Some of you may think that I am treading on delicate ground. I am not stating any thesis with an "ism" tacked on to it, nor defending one. Witness the obvious fact of the perpetual miseries afflicting a large part of the population in every considerable industrial center and reaching into

remote agricultural regions and ask yourself, Where are the breeding grounds of anti-social conduct? Realize for a moment the unceasing industrial conflicts and the many crimes committed by both parties to the strife. Consider the depth of meaning hidden in the commonplace remark that crime (as indicated by arrests or prison returns) increases in ratio to the extent and duration of widespread unemployment.

Since our sessions began, an article has appeared in one of the local papers under this caption: "Misery Stalks Detroit Slums. Heart-break and Struggle of the City's Poor As Revealed by Visiting Nurses." The only pertinent comment is that in the shadow of such conditions are we discussing the causation of crime.

What we hail as a civilizing process may sometimes prove to be merely a march of "progress" blighted by a trail of criminal manifestations. It is not simply a chance that in one of our states about seventy-five per cent of the inmates of a certain reformatory institution have been recruited from a thinly populated area recently opened up to commerce and industry, and which previously furnished very few public wards.

Without heaping up more of the examples ready at hand, the inference is clear and cannot be gainsaid, that unless we view the causation of crime in its relation to the whole social fabric, we shall see it imperfectly and in a distorted perspective. Moreover, preventive measure will prove but feeble palliatives unless they are directed against what is structurally wrong in the accepted order of things.

So, among the many things we do not know about crime is its relationship to the social, political and economic conditions under which men, women and children are born, live, work and have their being. The while this ignorance blooms—and who dares say that it is not a hardy plant?—we are like physicians exceedingly busy about certain symptoms, but not knowing or daring to probe for the seat of the disease. Why, under the circumstances, prate about invoking spiritually regenerative forces as a general panacea against crime? If the question be of righting the wrongs of a world in bitter struggle, the first thing is to acknowledge the existence of the wrongs without equivocation, to seek a clear insight into the conditions that create them, and then to muster courage to fight them. Why are we as penologists so unconcerned about the tap-roots of our problems?

It is an odd contradiction that legislation directed against specific evils or intended for social betterment may instigate law-breaking or even become a source of crime. But this too frequently happens when, in our eagerness for some reform, hasty and ill-judged legislation is

enacted which fails to get public support and concerns matters about which men may honestly differ. Legislative programs, to become useful, should have a sounder basis than an infantile faith in the efficiency of mere law not only as a corrective, but as a regenerative force; and the multiplication of penalties, or "putting teeth into the law," is never a criterion of the effectiveness of legislation, for there is no magic in the word *verboden*.

Let us take the simplest example. In a home, the surest way of making a child rebellious is by unreasonable repression of his play and innocent activities. Nothing is easier than to make a child a non-conformist to law, both in and outside the home; and the next steps are easy. The case is much the same in the world of men. There is universal agreement that certain things are in themselves wrong and, therefore, prohibited. It may be a wholly different story when legislation is enacted concerning things which in the opinion of some, perhaps only a minority, should be forbidden as a matter of public expediency.

We need not hunt far for instances in point. One may cite the "blue laws," much of the so-called anti-tobacco legislation, laws imposing restrictions on the use of language, free speech and assembly, other censorshipships, and sumptuary legislation generally. It is the common fate of such legislation to be grossly violated; hence much of the disrespect for law which characterizes our country and generation.

The most glaring example of the crime-breeding propensities of sumptuary legislation is provided by the national prohibition law. The aims of this law are not under my scrutiny; and no sane man can question the obligation of the government to enforce it. My sole object is to point to it as the most persistently and flagrantly violated piece of legislation ever conceived. More than this, the crimes of violence and corruption that have followed upon its enactment are beyond count. Distinct, powerful and country-wide criminal organizations now undertake to dispense drink; but they could not exist—and this is the vital point from a criminological point of view—unless they received a most generous support throughout the strata of society professedly standing for law and order. Not even the law enforcers themselves are free from the taint and able to stand up to their tasks.

The questions whether there have been gains commensurate with the evils mentioned, and whether these, in the course of time, will not succumb to the application of more force, are altogether beyond the range of my discussion. Ask yourselves! The facts are open to everyone; and all of you make claim to a knowledge also of the weaknesses of human nature. My sole mission is to draw your attention

to the potentialities of legislation as a breeder of crime when it lacks the support of a clearly defined and absolutely dominant public opinion. The necessity of appealing to force in order to vindicate many of our laws is axiomatic, but the futility of force when laws, by common consent or the consent of large numbers, are held in disrepute, is equally apparent.

Thus another item in the catalogue of things we don't know about crime, or, more precisely, do not heed, is how far it may be engendered by immature, faulty or downright stupid legislation.

The incidence of crime—the extent to which it occurs—in its various forms is a third and most exasperating element in our ignorance about crime. We have no quantitative measurements for the country as a whole and but imperfect ones for a few states. If we wish to learn about the homicide rates, we are forced to consult the files of some enterprising newspaper or perhaps the columns of an insurance publication. Nowhere is there a competent state bureau charged with the collection and distribution of criminal statistics. This is a painful statement and particularly because it has so often been repeated that one is fairly sick of it.

We are reproached on every hand for the multitude of grave crimes committed within the borders of our forty-eight states and especially because our homicide rate far exceeds that of all other civilized countries. We are surely not incurious about these things, for nowhere else are criminal acts so minutely recorded on the front pages of the newspapers; and we fairly revel in the discussion of "crime waves" and how crime should be dealt with. But when some of us insist that proper criminal records should be kept, including means of a national identification of offenders, and that arrests as well as the disposition of all criminal cases should be accounted for in a systematic manner, we meet with indifference if not with that scorn which is the last argument of the ignorant.

The mere count of criminal noses, so to speak, would be an idle occupation; for the assumption is perfectly safe that the uncaught criminals in the community far outnumber those who get caught. Why then, it may be asked, should we have such a deep concern for the facts in detail and orderly array? The incidence of crime is, of course, an index of conditions in respect to law and order and thus reflects, if you please, a certain moral status, notwithstanding that only a part of the offenses committed appear in the work of the police and the courts. Generally speaking, the graver offenses come to the surface and are matters of common knowledge. But with all our morbid

craving for news of crime, we are singularly incurious about its significance as a social phenomenon indicating the health or disease in the population by its attitude toward our most elemental protective institutions.

When disease ravages a community, especially at times of an epidemic, we insist that careful investigation be made and the results of it recorded; that the trouble be located and measured; and we clamor for thoroughgoing preventive action. In brief, we demand generally that accurate stock be taken of public health and that death rates be properly classified and measured. When the statistics indicate a low death rate we chortle and use the fact for "boosting" our particular community. So, too, we faithfully observe and record conditions of mental health as shown by admissions to institutions for the insane.

But what of the analogous conditions of crime? Here we lack almost totally adequate indices, both of a qualitative and quantitative nature. Neither the authorities nor the public seem to care to know and go on groping blindly in the dark. When crime becomes unusually rampant and violent in form, there is a temporary outcry usually accompanied by a clamor for quick justice and heavier penalties—the eternal and futile appeal to force. Normally the public pays little heed except to isolated offenses. Maybe the very frequency of crime dulls our sensibilities. A European cynic has suggested as a possible reason for the absence in this country of systematized information about crime that we are ashamed to let the world know how it abounds among us. That is a bit of exaggeration based on a misconception of our psychology. But the truth is that we don't know. Therefore, a third link in our ignorance about crime is that we have no reliable measure of its incidence.

It follows that we are badly informed about the operation of the means whereby we try to suppress crime. We should, of course, learn, in the first instance, from the primary vindicators of the law, the police, about prevailing conditions in respect to crime. They undoubtedly know a great deal, but are very chary in sharing their information with the public. To put the fact in another light, we are without competent police statistics except in some isolated municipal centers. Furthermore, we should be able to follow the work of the police through the offices of the prosecuting attorneys; we should learn precisely how the last mentioned officials wield their great power in dealing with offenders. But except in strikingly few instances the public is not taken into confidence. Perhaps we are seeking too much so long as

the public prosecutors derive their power so largely through political expedients.

The disposition of criminal cases by the courts, is to be sure a matter of public record, but as a general rule not one from which the facts are extracted and so presented that the ordinary citizen is enlightened. It would be idle to assert that we may learn how the criminal courts operate from a study of published records, for by and large there are none.

Finally, it should be ascertained what befalls in the numerous institutions for delinquents and criminals of all classes and ages. These institutions should not only serve as laboratories for the study of individual, but be a touchstone of what we accomplish through our elaborate and very costly penal systems. Is it being supercritical to say that our institutions do not quite meet the situation? One may aptly answer by putting another question, How can they, so long as there is no accepted standard of records and consequently no uniformity; no universal means of identifying criminals; and, in general, much that hampers and invalidates comparisons? We believe that our institutions accomplish much that is good; but our measurements of it lend, on the whole, frail support to our theory. Unquestionably some of our institutions would greatly enrich our knowledge had they freer hands to inform themselves. We believe, for instance, in the use of the conditional release of offenders, yet sorely lack information whereby to judge its effects.

My enumeration of the things we don't know about crime is necessarily incomplete. Those who speak after me will tell how much of our ignorance may be overcome.

In conclusion I wish to leave another thought with you. There is a widespread and largely inherited belief in the deterrent effect of the accepted methods of repressing crime. Are we so sure about the truth of this ancient theory that we dare regard punishment as a true preventive?

Ours is assuredly a time for criticism, both destructive and constructive. This address might fitly bear as motto the words of Dr. Angell in his baccalaureate address as President of Yale University last June: "The violation of law has never been so general nor so widely condoned as at present."